

cc: order, docket, remand letter
to Los Angeles Superior Court, Northwest District,
Van Nuys No. LC 095254

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 MANSOUR SOUBBY MANSOUR, an) Case No. CV 12-07506 DDP (CWx)
individual; NAGAT MANSOUR,)
12 an individual,)
13 Plaintiffs,)
14 v.) [Dkt. No. 6]
15 JPMORGAN CHASE BANK;)
CALIFORNIA RECONVEYANCE)
16 COMPANY; CALIFORNIA CRP)
PROPERTIES, INC.; CHUCK)
17 AZZUZ; NORMA AZZUZ; NORIO,)
LLC; RICHARD L. SWEENEY;)
18 FEDERAL DEPOSIT INSURANCE)
COMPANY as Doe Defendant 1,)
19 Defendants.)
20)

22 Presently before the court is a Motion to Dismiss Claims for
23 Lack of Subject Matter Jurisdiction filed by Defendant Federal
24 Deposit Insurance Corporation as Receiver of Washington Mutual Bank
25 ("FDIC"). Having reviewed the moving papers, the court GRANTS the
26 motion and REMANDS the action to state court.

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1 **I. Background**

2 Plaintiffs Mansour Soubby Mansour and Nagat Mansour
3 ("Plaintiffs") filed this action in the Superior Court of
4 California seeking, among other things, to set aside real property
5 foreclosures on two apartment buildings and to recover purported
6 damages related to those foreclosures. The Complaint filed on
7 October 24, 2011, names as defendants JP Morgan Chase Bank,
8 California Reconveyance Company, California CRP Properties, Chuck
9 Azzuz, Norma Azzuz, Noria LLC, Richard L. Sweeney, and Does 1
10 through 100. (Notice of Removal, Exh. B.) Washington Mutual Bank
11 ("WaMu") was the original beneficiary on the foreclosed-upon deeds
12 of trust, but when it failed in 2008, its assets were transferred
13 to Defendant JP Morgan Chase Bank. (First Amended Complaint ¶¶
14 612, 67.) Defendant FDIC was appointed Receiver for Washington
15 Mutual Bank ("Wamu"). (Notice of Removal, Exh. A.) The First
16 Amended Complaint, filed on June 7, 2012, substituted the "Federal
17 Deposit Insurance Corporation" for "Doe #1." (Notice of Removal,
18 Exh. C.)

19 On August 31, 2012, Defendant FDIC timely removed the action
20 to federal court under 12 U.S.C. § 1819(b)(2) (the FDIC may remove
21 any action to the United States District Court "before the end of
22 the 90-day period beginning on the date the action" is filed
23 against it). On September 7, 2012, Defendant FDIC filed this Motion
24 to Dismiss for Lack of Subject Matter Jurisdiction on the grounds
25 that the Plaintiffs-claimants had failed to complete the claims
process prior to seeking judicial review, as required by the
administrative claims procedures set forth in 12 U.S.C. §§
1821(d)(3) through (13). See also Henderson v. Bank of New

1 England, 986 F.2d 319, 321 (9th Cir. 1993) ("[a] claimant must
2 therefore first complete the claims process before seeking judicial
3 review."). Plaintiffs did not file an opposition to the Motion.

4 **II. Legal Standard**

5 Central District of California Local Rule 7-9 requires an
6 opposing party to file an opposition to any motion at least twenty-
7 one (21) days prior to the date designated for hearing the motion.
8 Additionally, Local Rule 7-12 provides that "[t]he failure to file
9 any required paper, or the failure to file it within the deadline,
10 may be deemed consent to the granting or denial of the motion."

11 **III. Discussion**

12 The hearing on Defendant's Motion was set for October 29,
13 2012. Plaintiffs' opposition was therefore due by October 9, 2012.
14 As of the date of this Order, Plaintiffs have not filed an
15 opposition, or any other filing that could be construed as a
16 request for a continuance. Accordingly, the court deems
17 Plaintiffs' failure to oppose as consent to granting the Motion to
18 Dismiss, and GRANTS the Motion. The case against Defendant Federal
19 Deposit Insurance Corporation is DISMISSED for lack of subject
20 matter jurisdiction.

21 The court finds further that without Defendant FDIC, it has no
22 jurisdiction over the action. District courts have original
23 jurisdiction over "all civil actions arising under the
24 Constitution, laws, or treaties of the United States. 28 U.S.C. §
25 1331. The removal statute is strictly construed against removal
26 jurisdiction, and federal jurisdiction must be rejected if any
27 doubt exists as to the propriety of removal. Gaus v. Miles, Inc.,

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1 980 F.2d 564, 566 (9th Cir. 1992). Here, no federal question
2 appears from the face of the Complaint.

3 This court also has original diversity jurisdiction over
4 actions between citizens of different states where the amount in
5 controversy exceeds \$75,000. 28 U.S.C. 1332(a). "The diversity
6 jurisdiction statute, as construed for nearly 200 years, requires
7 that to bring a diversity case in federal court against multiple
8 defendants, each plaintiff must be diverse from each defendant."

9 Lee v. American Nat. Ins. Co., 260 F.3d 997, 1004 (9th Cir. 2001).
10 Here, Plaintiffs are residents of California and Defendants CRP
11 Properties, Inc., and California Reconveyance Company are
12 California corporations and citizens of California. (Notice of
13 Removal, Exh. E, ¶¶ 4, 8, 10). Therefore the court finds it has no
14 jurisdiction and hereby REMANDS the matter to state court.

15 **IV. Conclusion**

16 The court GRANTS Defendant FDIC's Motion to Dismiss for Lack
17 of Subject Matter Jurisdiction and REMANDS the action to state
18 court for further proceedings.

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20 IT IS SO ORDERED.

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22 Dated: October 25, 2012



23 DEAN D. PREGERSON
24 United States District Judge
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